

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE FOR THE SIXTH JUDICIAL DISTRICT AT KNOXVILLE

STATE OF TENNESSEE,
Plaintiff,

v.

TERRY W. NOEL

Defendant.

**AGREED ORDER SETTING PAYMENT SCHEDULE
FOR RESTITUTION PAYMENTS**

Upon agreement of the parties, the Defendant is hereby ordered to make restitution payments as set forth in this Order. This Order amends the Agreed Final Judgment entered on December 10, 1997 solely as to restitution. All other provisions of the Agreed Final Judgment and this Court’s subsequent Orders remain in full force and effect. The restitution section of the Agreed Final Judgment is only amended to the extent that this Order is inconsistent with the Agreed Final Judgment.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendant Terry Noel should be required to pay the following consumers the amount listed no later than the date listed:

Consumer Restitution Time Line		
Name of Consumer	Amount to be paid by Noel	Date Payment must be provided to the consumer
Lisa Braden	\$50.00	August 1, 1999

Lora Wyrick	\$70.00	August 1, 1999
Melissa Smith	\$91.50	September 1, 1999
Melissa Howard	\$100.00	October 1, 1999
Jerry Saia	\$100.00	November 1, 1999
Charlesy Akers	\$110.00	November 1, 1999
Janet Pickel	\$150.00	December 1, 1999
Jacqueline Wallace	\$150.00	December 1, 1999
Ethel Parish	\$250.00	January 1, 2000
Greg Browning	\$350.00	February 1, 2000
Joy L. Johnson	\$350.00	March 1, 2000
Karren (Dixon) Wallace	\$400.00	April 1, 2000
William Troutt	\$460.00	May 1, 2000
Halls Neighbors Association	\$500.00	June 1, 2000
Irene Gideon	\$350.00	July 1, 2000
Irene Gideon	\$350.00	August 1, 2000
Tonya Craze		September 1, 2000
Linda Kelly		September 1, 2000

Defendant has represented and warranted to the State that the amounts listed above are the correct amounts of the refunds requested by consumers from him. If any of the amounts are incorrect, the correct amount due a consumer shall be paid on the stated date. Additionally, if any consumer is missing from the list, he or she shall be added immediately to the end of the list with payment due on the following consecutive month. Tonya Craze and Linda Kelly have already requested refunds. However, the present address and amount of refunds

for these individuals is not known. If they are found payments to them will be added as the next payment made in September 1, 2000.

IT IS ORDERED, ADJUDGED AND DECREED THAT all restitution payments shall be made by check drawn on an account with a sufficient cash balance to fund the required payment. The Defendant is strongly encouraged and permitted to make restitution payments to consumers prior to the date he must make the restitution payment to the consumer. The Defendant agrees that he will not contest the amount of any restitution payment required by this Order. Further, Defendant agrees not to submit any of the consumer restitution claims to arbitration.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT all consumer refunds shall be mailed by first class, certified mail, return receipt requested, postage paid United States Mail post marked no later than the date set forth above for the applicable consumer. The envelopes used to mail the refunds shall be marked APOSTMASTER: ADDRESS CORRECTION REQUESTED@ and refunds shall be re-mailed with an address correction where applicable. Alternatively the refunds may be hand-delivered to the recipient provided that the Defendant obtains a receipt for the refund signed by the consumer. The Defendant shall be required to provide the Attorney General with a copy of each refund check within three (3) days of mailing the refund to a particular consumer.

IT IS ORDERED, ADJUDGED AND DECREED THAT in the event Defendant is unable to locate consumers eligible for a refund under this section, those funds due such consumers shall be treated as unclaimed property in the possession of the State of Tennessee pursuant to the Uniform Disposition of Unclaimed Property Act, Tenn. Code Ann. § 66-29-101, *et seq.* These funds shall be delivered to the State Treasurer prior to the statutory due date. The Defendant shall provide a written notification to the Attorney General and Reporter within ten (10) days of turning any funds over to the Treasurer for a consumer that he cannot locate. The notification shall include details of the amounts delivered to the Treasurer for treatment as unclaimed property under the State statute. The Defendant shall provide all information necessary to the State Treasurer's office to appropriately handle such funds as unclaimed property as set forth by statute and regulation.

As required by previous Order, the Defendant shall continue to be responsible for all costs associated with the refund process, including, but not limited to, all costs associated with mailing, all letterhead, envelopes, copying charges, postage and other costs associated with the issuance of refund checks. Defendant is not responsible for any costs in addition to restitution incurred by a recipient of restitution unless such costs are ordered by the Court.

IT IS ORDERED ADJUDGED AND DECREED THAT in order to notify consumers when the Defendant will make the consumer refunds and to request that consumers keep the Defendant notified of any address changes, the Defendant is hereby ordered to provide the attached notice (Exhibit A) to all consumers due a refund. Exhibit A shall be mailed to consumers by the Defendant within twenty (20) days of entry of this Order. The mailing shall be by United States Postal Service, first class mail, postage paid. The envelopes shall be marked Apostmaster address correction requested@ and remailed as necessary.

IT IS ORDERED, ADJUDGED AND DECREED THAT on or before November 1, 2000, the Defendant shall file with the Attorney General the following information and shall supplement the information as is necessary:

A. A report verifying and certifying that eligible consumers who requested a refund have, in fact, received a full refund. Additionally, the Defendant shall verify and certify compliance with each provision of this Order with respect to refunds.

B. An alphabetical list of the name and address of each consumer who requested a refund, the amount of each consumer's refund and the total amount of all refunds provided.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that within ten (10) days of receipt of a request from the Division of Consumer Affairs for evidence that a specific consumer or consumers have received a refund by the required date, Defendant shall provide any documents, books and/or records necessary to establish to the satisfaction of the Division of Consumer Affairs that the refund process complied with this Order. These documents may include, but shall not be limited to, copies of the front and back of canceled checks and/or mailing records along with certified mail receipts indicating that the identified consumer or consumers received a refund. The documents, books or records shall be physically turned over and provided to the Division of Consumer Affairs' offices no later than ten (10) days from receipt of such request. This paragraph shall in no way limit the Attorney General's or the Division of Consumer Affairs' right to obtain documents, records and/or testimony through any other state or federal law, regulation or rule.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT the Defendant is required to continue to make timely payment to the State under the other Orders of this Honorable Court. In the event the Defendant fails to make any such restitution payment within thirty (30) days of its due date, the entire balance of all provisions of this Order and the Court's other orders then remaining may be collected by execution, garnishment or other legal process, together with attorneys' fees associated with collection and statutory interest pursuant to Tenn. Code Ann. § 47-14-121, from the date of entry of this Order.

As previously ordered, the Defendant is required to make a sworn monthly financial disclosure to the State of his financial status using the form attached as an exhibit to Plaintiff's Motion For Court To Set Defendant's Payment. The Court notes that Defendant has not filed the required reports. The Defendant is ordered to begin filing reports within thirty days of entry of this order and to file future monthly reports. If the Defendant's financial condition changes, the State may Petition the Court to change the time frame within which the Defendant is ordered to pay consumers.

All costs associated with this Order shall be taxed to the Defendant.